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**PATENT
Appeal Brief
Under 37 CFR 1.192**

5 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Mark PECEN et al.)	Examiner T. Nguyen
)	
Appl. No.	09/940,762)	Art Unit 2684
)	
Filed:	27 August 2001)	Atty. Docket No. CS99025RL
Title:	"Advice of Charge For Communications Services, Architectures ..."		

APPEAL BRIEF UNDER 37 C.F.R. § 1.192(c)

Assistant Commissioner for Patents
Alexandria, VA 22313

Sir:

Real Party In Interest

The real party in interest is Motorola Inc., by virtue of an assignment duly executed by the named inventor(s) and recorded in the Patent Office on 2 January 2002, REEL/FRAME 012432/0314.

Related Appeals and Interferences

There are no related appeals or interferences.

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Status of Claims

Original Claims 1-4, 9, 10, 14, 17-21 were amended and Claim 23 was added in a response under 37 CFR 1.111 filed on 26 March 2003.

5 Claims 1-23 are pending and stand twice-rejected in a final Office Action mailed on 4 June 2003.

The appealed claims are Claims 1-23, which are copied in Appendix A.

Status of Amendments

10 No amendments have been filed subsequent to the mailing of the final Office Action on 4 June 2003.

Summary

20 The disclosure is drawn, in one embodiment, to a method in communication application, for example, on a wireless communications device, comprising transmitting a request from the communication application to a communication server for a cost to conduct a communication transaction, for example, to download content over a wireless interface, and receiving from the communication server, in response to the request, a cost offer for the
25 transaction before the communication application conducts the transaction.

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5 In some embodiments, the cost offer is receiving a cost offer includes at least a communication service cost component, and it may be broken down into component costs, for example, content and service costs. The cost offer may in some applications be based on a quality of communications service, and/or the time of the transaction and/or an amount of information of the transaction and/or subscription information associated with the communication application. The cost offer may also be based at least partly on a credit to a user of the communication application for conducting the transaction.

10 These and other features of the disclosure are discussed more fully in the instant patent specification on pages 1-15 and illustrated in the corresponding drawings, including FIGS. 1-6.

15 **Issues for Consideration on Appeal**

1. Whether Claims 1-23 are anticipated by US 5,878,337 (Joao) under 35 USC 102(b).

20 **Grouping of Claims**

Claims 1-23 do not stand or fall together regarding the rejections thereof under 35 U.S.C. 102(b).

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Discussion Of Issues

Discussion of Patentability of Independent Claim 1

5 Regarding independent Claim 1, Joao fails to disclose or suggest a
method in communication application, including, among other limitations,

10 ... transmitting a request from the communication
application to a communication server for a cost to conduct the
transaction;

 receiving from the communication server, in response to the
request, a cost offer for the transaction before the communication
application conducts the transaction.

15 Discussion of Joao

20 Joao does not transmit a "... request ... for a cost to conduct the
transaction...." In Joao, the point-of-sale (POS) terminal (2) transmits an
authorization request with credit/debit/smart card information (e.g., swiped
magnetically) to the CRC (3). (Joao, col. 5, lines 26-39, col. 13, lines 24-32 & col.
17, lines 4-12 & FIGS. 1, 3 & 6). The CRC (3) of Joao requests from the POS
terminal (2) the transaction amount, which is processed with the information
to determine whether the card has been lost, stolen, exceeded its credit limit,
etc. (Joao, col. 5, lines 39-50 & col. 17, lines 13-40 & FIGS. 3 & 6).

25 In Joao, the CRC (3) transmits a signal to the POS terminal (2) not
authorizing the transaction if it is determined that the card is lost, stolen etc. so
that the transaction may be terminated. (Joao, col. 5, lines 62-67 & col. 18, lines
1-12 & FIGS. 3 & 6). If the CRC (3) determines that the card is not lost, stolen,

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etc., the CRC transmits information pertaining to the transaction to the communications device (4) (e.g., pager, fax or answering), which is located with the cardholder. (Joao, col. 6, lines 4-43, col. 18, lines 24-56 & FIGS. 3 & 6. Upon receipt of the information from the CRC, the communications device (4)
5 may respond by authorizing or voiding the transaction. (Joao, col. 6, lines 44-61, col. 18, line 57- col. 19, line 8 & FIGS. 3 & 6). The CRC (3) then communicates the response or lack of response from the communications device (4) to the POS terminal (2). (Joao, col. 6, line 61-col. 7, line 5, col. 19, lines 9-63 & FIGS. 3 & 6). Thus Joao does not receive "... from the
10 communication server, in response to the request, a cost offer for the transaction before the communication application conducts the transaction." In Joao, the communication device (4) and/or the CRC (3) merely respond to an authorization request made by the POS terminal (2).

Claim 1 and the claims that depend therefrom are therefore
15 patentably distinguished over Joao.

Discussion of Patentability of Claim 2

Regarding dependent Claim 2, Joao fails to disclose or suggest "...
20 receiving a cost offer including at least a communication service cost component" in combination with the base and any intervening claims. There is no discussion in Joao of the "communication component" of a cost offer, and the Examiner does not specifically address this limitation. Claim 2 is thus further patentably distinguished over Joao.

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Discussion of Patentability of Claim 3

Regarding dependent Claim 3, Joao fails to disclose or suggest "...
indicating the cost offer broken down into component costs at the
communication application" in combination with the base and any intervening
claims. There is no discussion in Joao of the "component costs" of a cost offer,
and the Examiner does not specifically address this limitation. Claim 3 is thus
further patentably distinguished over Joao.

Discussion of Patentability of Claim 4

Regarding dependent Claim 4, Joao fails to disclose or suggest
"...receiving from the communication server a cost offer based on a quality of
communications service" in combination with the base and any intervening
claims. There is no discussion in Joao of a "... cost offer based on a quality of
communications service", and the Examiner does not specifically address this
limitation. Claim 4 is thus further patentably distinguished over Joao.

Discussion of Patentability of Claim 5

Regarding dependent Claim 5, Joao fails to disclose or suggest "...
receiving from the communication server a cost offer based on at least one of a
time of the transaction, an amount of information of the transaction, and
subscription information associated with the communication application" in
combination with the base and any intervening claims. There is no discussion
in Joao of a cost offer based on the criteria of Claim 5, and the Examiner does

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not specifically address these limitations. Claim 5 is thus further patentably distinguished over Joao.

Discussion of Patentability of Claim 6

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Regarding dependent Claim 6, Joao fails to disclose or suggest "... receiving from the communication server a cost offer based at least partly on a credit to a user of the communication application for conducting the transaction" in combination with the base and any intervening claims. There is
10 no discussion in Joao of a cost offer based on a credit, and the Examiner does not specifically address these limitations. Claim 6 is thus further patentably distinguished over Joao.

Discussion of Patentability of Claim 7

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Regarding dependent Claim 7, Joao fails to disclose or suggest "... receiving from the communication server a cost offer based at least partly on an interactive transaction performance at the communication application" in combination with the base and any intervening claims. There is no discussion
20 in Joao of a cost offer based on an interactive transaction, and the Examiner does not specifically address these limitations. Claim 7 is thus further patentably distinguished over Joao.

Discussion of Patentability of Independent Claim 8

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Regarding independent Claim 8, Joao fails to disclose or suggest a method in communication application, including, among other limitations,

5 ...transmitting a request from the mobile wireless communication device to a network for a cost to conduct the wireless transaction;

 receiving from the network, in response to the request, a cost to conduct the wireless transaction before conducting the wireless transaction.

10 Discussion of Joao

Joao does not transmit a "... request ... for a cost to conduct the wireless transaction...." In Joao, the point-of-sale (POS) terminal (2) transmits
15 an authorization request with credit/debit/smart card information (e.g., swiped magnetically) to the CRC (3). (Joao, col. 5, lines 26-39, col. 13, lines 24-32 & col. 17, lines 4-12 & FIGS. 1, 3 & 6). The CRC (3) of Joao requests from the POS terminal (2) the transaction amount, which is processed with the information to determine whether the card has been lost, stolen, exceeded its
20 credit limit, etc. (Joao, col. 5, lines 39-50 & col. 17, lines 13-40 & FIGS. 3 & 6).

In Joao, the CRC (3) transmits a signal to the POS terminal (2) not authorizing the transaction if it is determined that the card is lost, stolen etc. so that the transaction may be terminated. (Joao, col. 5, lines 62-67 & col. 18, lines 1-12 & FIGS. 3 & 6). If the CRC (3) determines that the card is not lost, stolen,
25 etc., the CRC transmits information pertaining to the transaction to the communications device (4) (e.g., pager, fax or answering), which is located with the cardholder. (Joao, col. 6, lines 4-43, col. 18, lines 24-56 & FIGS. 3 & 6). Upon receipt of the information from the CRC, the communications device (4)

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may respond by authorizing or voiding the transaction. (Joao, col. 6, lines 44-
61, col. 18, line 57- col. 19, line 8 & FIGS. 3 & 6). The CRC (3) then
communicates the response or lack of response from the communications
device (4) to the POS terminal (2). (Joao, col. 6, line 61-col. 7, line 5, col. 19,
5 lines 9-63 & FIGS. 3 & 6). Thus Joao does not receive "... in response to the
request, a cost to conduct the wireless transaction before conducting the
wireless transaction." In Joao, the communication device (4) and/or the CRC
(3) merely respond to an authorization request made by the POS terminal (2).

Claim 8 and the claims that depend therefrom are therefore
10 patentably distinguished over Joao.

Discussion of Patentability of Claim 9

Regarding dependent Claim 9, Joao fails to disclose or suggest "...
15 receiving a cost to conduct the wireless transaction including at least a
communication service cost component" in combination with the base and any
intervening claims. There is no discussion in Joao of a "communication service
cost component", and the Examiner does not specifically address these
limitations. Claim 9 is thus further patentably distinguished over Joao.

Discussion of Patentability of Claim 10

Regarding dependent Claim 10, Joao fails to disclose or suggest
"...receiving a cost to conduct the wireless transaction including a content cost
25 component in addition to the communication service component" in
combination with the base and any intervening claims. There is no discussion

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in Joao of transaction communication service and cost content components,
and the Examiner does not specifically address these limitations. Claim 10 is
thus further patentably distinguished over Joao.

5 **Discussion of Patentability of Claim 11**

Regarding dependent Claim 11, Joao fails to disclose or suggest
"... identifying the wireless transaction by making a selection at the mobile
wireless communication device" in combination with the base and any
10 intervening claims. In Joao, the selection is made at the POS terminal (2) and
transmitted to the communications device (4) for authorization. The Examiner
does not specifically address these limitations. Claim 11 is thus further
patentably distinguished over Joao.

15 **Discussion of Patentability of Claim 12**

Regarding dependent Claim 12, Joao fails to disclose or suggest
"...receiving from the network a cost based at least partly on at least one of a
time interval required to download the data, a number of octets to be received
20 by the mobile wireless communication device" in combination with the base
and any intervening claims. Joao does not disclose the limitations of Claim 12
and the Examiner does not specifically address them. Claim 12 is thus further
patentably distinguished over Joao.

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Discussion of Patentability of Claim 13

Regarding dependent Claim 13, Joao fails to disclose or suggest
"...receiving from the network a cost based at least partly on a credit to an
5 account of the mobile wireless communication device for downloading the
information" in combination with the base and any intervening claims. Joao
does not disclose the limitations of Claim 13 and the Examiner does not
specifically address them. Claim 13 is thus further patentably distinguished
over Joao.

Discussion of Patentability of Claim 14

Regarding dependent Claim 14, Joao fails to disclose or suggest
"...receiving from the network a cost based at least partly on an amount of
15 data to be downloaded over a time interval by the mobile wireless
communication device" in combination with the base and any intervening
claims. Joao does not disclose the limitations of Claim 14 and the Examiner
does not specifically address them. Claim 14 is thus further patentably
distinguished over Joao.

Discussion of Patentability of Claim 15

Regarding dependent Claim 15, Joao fails to disclose or suggest
"...receiving from the network a cost based at least partly on an interactive
25 transaction performance at the mobile wireless communication device" in
combination with the base and any intervening claims. Joao does not disclose

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the limitations of Claim 15 and the Examiner does not specifically address them. Claim 15 is thus further patentably distinguished over Joao.

Discussion of Patentability of Claim 16

5 Regarding dependent Claim 16, Joao fails to disclose or suggest
"... receiving from the network a cost based at least partly on participation in
the interactive transaction at the mobile wireless communication device" in
combination with the base and any intervening claims. Joao does not disclose
the limitations of Claim 16 and the Examiner does not specifically address
10 them. Claim 16 is thus further patentably distinguished over Joao.

Patentability of Independent Claim 17

15 Regarding independent Claim 17, Joao fails to disclose or suggest
a method in communication application, including, among other limitations,

20 ...receiving a request at a communication serving system
for a wireless transaction cost from the wireless communication
device;

 providing a wireless transaction cost to the wireless
communication device, in response to the request, before the
wireless communication device conducts a wireless transaction for
which the cost is provided.

25 As noted above, in Joao, the CRC (3) receives an authorization
request from the POS terminal (2), and the CRC communicates the transaction
information to the communication (4) device for authorization. Claim 17 and
the claims that depend therefrom are therefore patentably distinguished over
Joao.

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Discussion of Patentability of Claim 18

5 Regarding dependent Claim 18, Joao fails to disclose or suggest
"...receiving a wireless transaction cost acceptance from the wireless
communication device before the wireless communication device conducts the
wireless transaction" in combination with the base and any intervening claims.
Joao does not disclose the limitations of Claim 18 and the Examiner does not
specifically address them. Claim 18 is thus further patentably distinguished
10 over Joao.

Discussion of Patentability of Claim 19

15 Regarding dependent Claim 19, Joao fails to disclose or suggest
"... generating the wireless transaction cost based on at least one of a time
interval required to download the information, an amount of information to be
downloaded by the wireless communication device over a time interval, and a
subscription information of the wireless communication device" in
combination with the base and any intervening claims. Joao does not disclose
20 the limitations of Claim 19 and the Examiner does not specifically address
them. Claim 19 is thus further patentably distinguished over Joao.

Discussion of Patentability of Claim 20

25 Regarding dependent Claim 20, Joao fails to disclose or suggest
"... generating the wireless transaction cost based on a content cost and a

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content transport charge" in combination with the base and any intervening claims. Joao does not disclose the limitations of Claim 20 and the Examiner does not specifically address them. Claim 20 is thus further patentably distinguished over Joao.

5

Discussion of Patentability of Claim 21

Regarding dependent Claim 21, Joao fails to disclose or suggest "...generating the wireless transaction cost based at least partly on one of an interactive transaction performance at the wireless communication device and a participation in the interactive transaction at the wireless communication device" in combination with the base and any intervening claims. Joao does not disclose the limitations of Claim 21 and the Examiner does not specifically address them. Claim 21 is thus further patentably distinguished over Joao.

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Discussion of Patentability of Claim 22

Regarding dependent Claim 22, Joao fails to disclose or suggest "...generating the wireless transaction cost based at least partly on a credit to an account of the wireless communication device for downloading the advertisement" in combination with the base and any intervening claims. Joao does not disclose the limitations of Claim 22 and the Examiner does not specifically address them. Claim 22 is thus further patentably distinguished over Joao.

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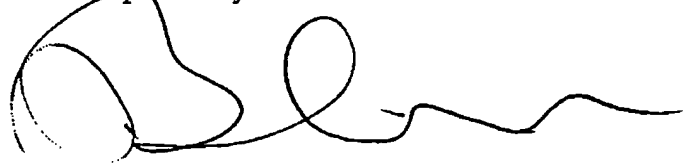
Discussion of Patentability of Claim 23

Regarding dependent Claim 23, Joao fails to disclose or suggest
"...providing information indicating reliability of the wireless transaction cost
to the wireless communication device" in combination with the base and any
intervening claims. Joao does not disclose the limitations of Claim 23 and the
Examiner does not specifically address them. Claim 23 is thus further
patentably distinguished over Joao.

Prayer for Relief

Kindly reverse and vacate the rejections of the appealed claims in
view of the discussion above, with instructions for the Examiner to allow said
Claims to issue in a United States Patent without further delay.

Respectfully submitted,



ROLAND K. BOWLER II 27 JUNE 2003
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APPENDIX A

Claims On Appeal

5

1. (Once Amended) A method in communication application,
comprising:

transmitting a request from the communication application to a
communication server for a cost to conduct a communication transaction;

10 receiving from the communication server, in response to the
request, a cost offer for the transaction before the communication application
conducts the transaction.

15 2. (Once Amended) The method of Claim 1, receiving a cost offer
including at least a communication service cost component.

20 3. (Once Amended) The method of Claim 1, indicating the cost
offer broken down into component costs at the communication application.

25 4. (Once Amended) The method of Claim 1, receiving from the
communication server a cost offer based on a quality of communications
service.

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5. (Original) The method of Claim 1, receiving from the communication server a cost offer based on at least one of a time of the transaction, an amount of information of the transaction, and subscription information associated with the communication application.

5

6. (Original) The method of Claim 1, receiving from the communication server a cost offer based at least partly on a credit to a user of the communication application for conducting the transaction.

10

7. (Original) The method of Claim 1, the transaction is an interactive transaction, receiving from the communication server a cost offer based at least partly on an interactive transaction performance at the communication application.

15

8. (Original) A method in a mobile wireless communication device, comprising:

20

identifying a wireless transaction at the mobile wireless communication device;

transmitting a request from the mobile wireless communication device to a network for a cost to conduct the wireless transaction;

receiving from the network, in response to the request, a cost to conduct the wireless transaction before conducting the wireless transaction.

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9. (Once Amended) The method of Claim 8, receiving a cost to
 conduct the wireless transaction including at least a communication service
 cost component.

5

10. (Once Amended) The method of Claim 9, receiving a cost to
 conduct the wireless transaction including a content cost component in
 addition to the communication service component.

10

11. (Original) The method of Claim 8, identifying the wireless
 transaction by making a selection at the mobile wireless communication
 device.

15

12. (Original) The method of Claim 8, the wireless transaction is a
 data download to mobile wireless communication device via the network,
 receiving from the network a cost based at least partly on at least one of a time
 interval required to download the data, a number of octets to be received by
 the mobile wireless communication device.

20

13. (Original) The method of Claim 8, the wireless transaction is an
 information download to the mobile wireless communication device via the
 network, receiving from the network a cost based at least partly on a credit to

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an account of the mobile wireless communication device for downloading the
information.

5 14. (Once Amended) The method of Claim 8, the wireless
transaction is a data download to the mobile wireless communication device
via the network, receiving from the network a cost based at least partly on an
amount of data to be downloaded over a time interval by the mobile wireless
communication device.

10

 15. (Original) The method of Claim 8, the wireless transaction is an
interactive transaction, receiving from the network a cost based at least partly
on an interactive transaction performance at the mobile wireless
15 communication device.

20 16. (Original) The method of Claim 8, the wireless transaction is an
interactive transaction, receiving from the network a cost based at least partly
on participation in the interactive transaction at the mobile wireless
communication device.

25 17. (Once Amended) A method for providing wireless transaction
cost information to a wireless communication device, comprising:

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receiving a request at a communication serving system for a
wireless transaction cost from the wireless communication device;

providing a wireless transaction cost to the wireless
communication device, in response to the request, before the wireless
communication device conducts a wireless transaction for which the cost is
provided.

18. (Once Amended) The method of Claim 17, receiving a wireless
transaction cost acceptance from the wireless communication device before the
wireless communication device conducts the wireless transaction.

19. (Once Amended) The method of Claim 17, the wireless
transaction is an information download to the wireless communication device,
generating the wireless transaction cost based on at least one of a time interval
required to download the information, an amount of information to be
downloaded by the wireless communication device over a time interval, and a
subscription information of the wireless communication device.

20. (Once Amended) The method of Claim 17, generating the
wireless transaction cost based on a content cost and a content transport
charge.

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21. (Once Amended) The method of Claim 17, the wireless transaction is an interactive transaction, generating the wireless transaction cost based at least partly on one of an interactive transaction performance at the wireless communication device and a participation in the interactive transaction at the wireless communication device.

22. (Once Amended) The method of Claim 17, the wireless transaction is an advertisement transfer to the wireless communication device, generating the wireless transaction cost based at least partly on a credit to an account of the wireless communication device for downloading the advertisement.

23. (Previously Added) The method of Claim 17, providing information indicating reliability of the wireless transaction cost to the wireless communication device.